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JS-6

7 Attorneys for Plaintiff THE BANK OF NEW YORK  
8 AS TRUSTEE FOR THE CERTIFICATEHOLDERS  
9 CWALT, INC. ALTERNATIVE LOAN TRUST 2006-33CB,  
10 MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2006-33CB

11 **UNITED STATES DISTRICT COURT**  
12 **CENTRAL DISTRICT OF CALIFORNIA**

13 THE BANK OF NEW YORK AS TRUSTEE ) Case No.: 10-cv-00089-R-OPx  
14 FOR THE CERTIFICATEHOLDERS CWALT, )  
15 INC. ALTERNATIVE LOAN TRUST 2006- ) **ORDER ON MOTION FOR ORDER**  
16 33CB, MORTGAGE PASS-THROUGH ) **REMANDING CASE TO STATE COURT,**  
17 CERTIFICATES, SERIES 2006-33CB ) **FILED BY PLAINTIFF BANK OF NEW**  
18 ) **YORK**  
19 Plaintiff(s), )  
20 v. ) (28 U.S.C. §§ 1441(a), 1446(b), 1447(c)  
21 )  
22 JOEL M. MIRANDA and DOES I through X, ) (Federal Rule of Civil Procedure 7.1; Local Rule  
23 Inclusive, ) 7.1-1)  
24 )  
25 Defendants. ) Assigned: Hon. Manuel L. Real, Courtroom 8  
26 )  
27 )  
28 )

21 This matter having come before the Court upon the motion of Plaintiff THE BANK OF NEW  
22 YORK AS TRUSTEE FOR THE CERTIFICATEHOLDERS CWALT, INC. ALTERNATIVE  
23 LOAN TRUST 2006-33CB MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2006-33CB  
24 (hereinafter, "BONY") for an Order remanding this matter to state court, and good cause therefore  
25 having been shown,

26 NOW, THEREFORE, it is ordered that this matter be remanded to the Riverside County  
27 Superior Court, Case No. RIU014742, entitled *THE BANK OF NEW YORK AS TRUSTEE FOR THE*  
28 *CERTIFICATEHOLDERS CWALT, INC. ALTERNATIVE LOAN TRUST 2006-33CB MORTGAGE*


1 *PASS-THROUGH CERTIFICATES, SERIES 2006-33CB v. JOEL M. MIRANDA and DOES I through*  
2 *X, Inclusive* on the grounds that this court lacks subject matter jurisdiction over this matter, as the case  
3 could not have been filed originally in Federal court (i.e., on diversity or Federal question grounds)  
4 for the following reasons:

5 1. Diversity jurisdiction does not exist because the matter in controversy does not exceed  
6 \$75,000, exclusive of interest and costs, and the parties are not diverse. The Complaint contains a  
7 single claim for possession of residential real property under California Code of Civil Procedure §  
8 1161a. BONY admits that the maximum damages that could be awarded on this claim do not exceed  
9 \$75,000;

10 2. Federal subject matter jurisdiction does not exist because the Unlawful Detainer Complaint  
11 does not present a claim or right arising under the Constitution, treaties, or laws of the United States.  
12 The Complaint contains a single claim for possession of residential real property under California  
13 Code of Civil Procedure § 1161a. This claim is grounded solely in the statutes of the State of  
14 California.

15 This Court further orders that this case be remanded on the basis that the removal was filed  
16 untimely and in violation of 28 U.S.C. § 1446(b), in that it was not filed within 30 days after receipt  
17 by the defendant of a copy of the initial pleading which defendant is seeking to remove to this Court.

18  
19  
20 Dated: \_\_ March 17, 2010 \_\_

  
\_\_\_\_\_  
Honorable Manuel L. Real  
United States District Court, Judge

PROOF OF SERVICE

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action; my business address is 1231 E. Dyer Road, Suite 100; Santa Ana, CA 92705.

On March 17, 2010, I served a copy of the following document(s):

**[PROPOSED] ORDER ON MOTION FOR ORDER REMANDING CASE TO STATE COURT, FILED BY PLAINTIFF BANK OF NEW YORK**

on the interested parties in this action:

  X   **BY MAIL:** I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. postal service on that same day with First Class postage, thereon fully prepaid at Santa Ana, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit. I have placed a true and correct copy thereof in a sealed envelope(s) with postage thereon fully prepaid addressed as follows:

Joel M. Miranda  
7171 Jurupa Road  
Riverside, CA 92509  
951-685-2533  
(Defendant, pro se)

Joel M. Miranda  
7171 Jurupa Road Rear Left  
Riverside, CA 92509  
951-685-2533  
(Defendant, pro se – Alternate Address)

STATE: I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

FEDERAL: I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct, and that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on March 17, 2010, at Santa Ana, California.

\_\_\_\_\_  
Amber Perry